THE HON'BLE SMT. JUSTICE T. MEENA KUMARI
AND
THE HON'BLE SRI JUSTICE G. CHANDRAIAH

WRIT PETITION No.16180 of 2006

Date 8.10.2007

Between:
The District Collector,
Srikakulam & another.

.....

PETITIONERS
AND

Sri G. Satyanarayana

.....RESPONDENT

THE HON'BLE SMT. JUSTICE T. MEENA KUMARI
AND
THE HON'BLE SRI JUSTICE G. CHANDRAIAH

WRIT PETITION No.16180 of 2006

ORDER: (per Smt. T.Meena Kumari,J)

The Department filed the present writ petition seeking a writ of Certiorari to call for the records relating to and connected with the orders dated 26.4.2006 made in O.A. No. 7359 of 2005 on the file of the A.P. Administrative Tribunal, Hyderabad and to set aside the same by holding it as illegal and unreasonable.

The brief facts of the case are that the respondent herein who claims to be an un-employee stated to have worked as an Attender in the Transport Department during the strike period in the year 1986. Subsequently, when a vacancy of Attender was notified in the year 1995, the respondent seems to have applied for the said post. When the department did not take any action, the respondent seemed to have filed O.A. before the Tribunal, which was dismissed by the tribunal on the ground that the said vacancy was reserved for physically handicapped persons. However, subsequently, when a vacancy had arisen in the year 2005, the respondent again claimed to have applied to the same. When he was not appointed to the post of Attender in terms of G.O.Ms.No. 69, dated 18.2.1987, the petitioner filed the present O.A. The Tribunal, by the order impugned in this writ petition, directed the

Department to notify the vacancy and to consider the case of the respondent in terms of G.O. Ms. No. 69, dated 18.2.1987. Aggrieved, the department filed the present writ petition.

Learned Government Pleader for Services submits that the Tribunal has committed a grave error in directing the department to notify the vacancy inasmuch as no direction can be issued to notify a vacancy. He further submitted that in view of the fact that the respondent worked only for a period of 29 days during the strike period, he cannot claim regular employment as a matter of right. He, therefore, prayed that the writ petition be allowed and the impugned order be set aside.

Learned counsel for the respondent, on the other hand, supported the impugned order and prayed that the writ petition be dismissed.

There is no dispute about the fact that the respondent worked as an Attender during the strike period. There is also no dispute about the fact that as per G.O. Ms. No. 69, dated General Administration (Ser.Wel.) Department, dated 18.2.1987, preference has to be given in the matter of employment to those persons who were appointed on ad hoc basis on daily wages during the strike period and whose services were terminated consequent to the calling off of the strike by the NGOs. A further direction was issued in the said G.O., that preference may be given to such persons for appointment in public sector undertakings in the State.

Therefore, keeping in view the aforesaid G.O. and in view of the fact that the respondent had worked as an Attender during the strike period, a direction can be issued to the Department to consider the case of the petitioner for the post of Attender whenever it notifies a vacancy for filling up the post of Attender. But, however, no direction can be given to the

Government to notify the said vacancy.

Taking into consideration the facts and circumstances of the case and in the interest of justice, we deem it proper to modify the order of the Tribunal. Accordingly, while modifying the order of the Tribunal, we direct the Department to consider the feasibility of notifying the vacancy of Attender as expeditiously as possible. In case, the department notifies such vacancy and the respondent applies to the same pursuance of such notification, the department shall consider the case of the respondent against the said vacancy, as per G.O. Ms. No. 69, dated 18.2.1987.

The writ petition is accordingly disposed of with the above modification. No costs.

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T. MEENA KUMARI,J

DATE: 8th October, 2007

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G. CHANDRAIAH,J

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